

### **REMARKS/ARGUMENTS**

In the Office Action, the Examiner noted that claims 1-25 are pending in the application. The Examiner additionally stated that claims 11-25 are allowed, claims 1 and 5 are rejected, and claims 2-4 and 6-10 are objected to. No amendments are made to the claims in this response. Hence, claims 1-25 are pending in the application.

Applicant hereby requests further examination and reconsideration of the application, in view of the foregoing amendments.

#### **In the Specification**

The Examiner objected to the disclosure because of the following informalities: Co-pending Applications are required to be kept current. Accordingly, Applicant has amended the section entitled CROSS-REFERENCE TO RELATED APPLICATIONS to provide current status of the co-pending applications.

#### **In the Claims**

##### **Non-Statutory Obviousness-Type Double Patenting Rejections**

The Examiner rejected claims 1 and 5 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 6,707,345. More specifically, the Examiner noted that although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the inventions are nearly identical. In addition, the Examiner stated that the rejection is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Because the Examiner rejected claims 1 and 5 as being unpatentable over claim 13 of issued U.S. Patent No. 6,707,345, Applicant assumes that the double patenting rejections are not provisional, but are actual. To overcome these rejections, Applicant submits herewith a Terminal Disclaimer in compliance with 37 CFR 1.321(c) and notes that the conflicting patent is commonly owned with the instant application.

For these reasons, Applicant respectfully requests that the Examiner withdraw his rejection to claims 1 and 5.

The Examiner objected to claims 2-4 and 6-10 as being dependent upon a rejected base claim, but indicated that the claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In that a Terminal Disclaimer is filed herewith to overcome the rejections to claims 1 and 5, the objections to claims 2-4 and 6-10 are rendered moot.

**Allowable Subject Matter**

Applicant appreciates the Examiner's consideration and allowance of claims 11-25.

### **CONCLUSIONS**

In view of the arguments advanced above, Applicant respectfully submits that claims 1-25 are in condition for allowance. Reconsideration of the rejections is requested, and allowance of the claims is solicited.

Applicant earnestly requests that the Examiner contact the undersigned practitioner by telephone if the Examiner has any questions or suggestions concerning this amendment, the application, or allowance of any claims thereof.

EXPRESS MAIL LABEL NUMBER: **EO 002 738 434 US**  
DATE OF DEPOSIT: **9/28/2004**

I hereby certify that this paper is being deposited with the U.S. Postal Service Express Mail Post Office to Addressee Service under 37 C.F.R. §1.10 on the date shown above and is addressed to Mail Stop **AMENDMENT**, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Respectfully submitted,  
**HUFFMAN PATENT GROUP, LLC**

By \_\_\_\_\_

  
**RICHARD K. HUFFMAN**

Reg. No. 41,082

Tel.: (719) 575-9998

Date: 9/28/04